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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,339	03/10/2004	Mitsuo Higuchi	TESJ.0067	2007
38327	7590	05/04/2005	EXAMINER	
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE, SUITE 1400 FALLS CHURCH, VA 22042			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/796,339

Applicant(s)

HIGUCHI, MITSUO

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10 March 0204 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities:

Abbreviated "PET" should be accompanied by a full description in parentheses at the first appearance, for example: PET (Polyethylene Teraphthalate).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"and the like" and "or the like" (various places in the claim) renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "and/or the like"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d).

"the state" (line 18) is indefinite for it is unclear as to what state applicant is referring.

"the above-described forming" (line 20) is indefinite for it is unclear as to which step applicant is referring since both steps (1) and (2) are "forming" the bottle: step (1) is forming the bottle into a predetermined volume, and step (2) is forming the bottle into a compressed state.

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***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa et al. (US 5,518,046) in view of Collete et al. (US 5,628,957).

Furukawa discloses a method for charging bottle with liquid comprising the steps of:

- forming a container (102) by blow molding into a maximum expansion shape (col. 6, lines 45-47);
- compressing the container (102) vertically into a maximum contraction shape (col. 6, lines 47-48);
- transporting the container (102) in the maximum contraction shape on a feed-in conveyor (4) to a feed-in station (S1) of a liquid charging apparatus (2) (col. 6, lines 48-61);
- expanding the container by charging a predetermined amount of liquid into the container (102) at a liquid charging station (S5) (col. 7, lines 1-11).

The method of Furukawa meets most of applicant's claimed subject matter except for the step of transporting the charged bottles to wholesalers or retailers. However, Collete teaches that container in the form of PET blow molded bottles are generally washed, filled, capped, distributed to wholesalers and retailers, purchased and used by consumers, and returned to a bottler (col. 1, lines 51-59). Therefore, it would have been obvious to an ordinary skilled person

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in the art, at the time the invention was made, to have modified the method of Furukawa by having provided a further step of distributing the charged bottles to wholesalers or retailers, as taught by Collete, so that the charged bottles can be purchased and used by consumers.

Regarding the wherein clause (lines 29-37), compressing the bottle after being purchased and emptied is considered to be an intended use since the bottle is no longer in the possession of the bottler after the charged bottle is purchased by the consumer; and thus does not patentably distinguish the claimed invention over the applied prior art. However, for the sake of the environment, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the method of Furukawa by having provided further steps of collecting the emptied bottles, washing, sterilizing, as taught by Collete, and compressing the bottles prior to conveying the bottles to the liquid charging apparatus as required by the filling method of Furukawa.

### ***Conclusion***

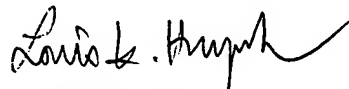
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (571) 272-4462. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
PRIMARY EXAMINER  
Art Unit 3721

April 29, 2005